

REMARKS/ARGUMENTS

Claims 1, 3-7, 15 and 16 are pending herein. Claims 1 and 16 have been amended hereby to correct matters of form and to incorporate claim 2. Claim 7 has been amended to correct matters of form. Applicant respectfully submits that no new matter has been added.

1. Claims 1 and 16 were rejected under §112, second paragraph.

The form of claims 1 and 16 have been amended to more clearly recite the steps and physical means for operating the electric energy storage system. Support for the computer control means is at paragraph [0016] of the specification. Accordingly, the §112, second paragraph rejection should be reconsidered and withdrawn.

2. Claims 1-2, 4-6 and 15 were rejected under §102(b) in view of Hesse. To the extent this rejection might again be applied against the amended claims, it is respectfully traversed.

Claim 1 has been amended to add the word "only" at the end of the claim to distinguish claim 1 from Hesse. In Hesse, the scheduler uses real-time information from external sources, such as outdoor temperature and pricing information, to determine when to charge the storage device (Col. 4, lines 33-50). Thus, the Hesse scheduling system adapts the previously programmed pattern (program) based on real-time data. In contrast, the system of amended claim 1 charges and discharges the electric energy storage system strictly on the basis of a previously programmed running pattern (program). Hesse does not teach or suggest a system that is controlled strictly on the basis of a previously programmed running pattern of charge and discharge of the electric energy storage system, as recited in amended claim 1. Thus, amended claim 1 is clearly distinguishable from Hesse. For at least the foregoing reasons, Applicant respectfully requests that the above rejection be reconsidered and withdrawn.

Claims 4-6 and 15 depend directly from claim 1, which is distinguishable from the cited prior art and defines patentable subject matter for the reasons explained above. Accordingly, Applicants respectfully submit that claims 4-6 and 15 likewise define patentable subject matter over Hesse.

3. Claim 3 was rejected under §103(a) over Hesse.

With respect to claim 3, Applicant respectfully traverses the Examiner's rejection and statement that "the consumption rate of electric energy stored in the electric energy storage system could be any percentage." The 80% or greater consumption rate of electric energy stored requirement is based on the temperature requirements of a sodium sulfur battery electric energy storage device for proper operation. As stated by the Examiner in the Office Action, "Hesse does not explicitly teach that the running pattern is programmed so that a consumption rate of electric energy stored in the electric energy storage system becomes 80% or more." Further, Hesse does not teach or suggest setting the stored energy consumption rate of the electric energy storage system to be compatible with and support the proper operation of the energy storage device employed. Thus, the 80% or greater requirement is not obvious and claim 3 is clearly distinguishable from the cited prior art reference.

4. Claims 7 and 16 were rejected under §103(a) over Hesse in view of Suzuki.

With respect to claim 7, the text of claim 7 was amended to include the phrase "and an energy consumption rate of 80% or greater maintains a high temperature in a sodium sulfur battery to ensure proper operation" at the end of claim 7, after "battery." This amendment clarifies why the 80 % or greater percentage would not have been obvious. Further, while Suzuki discloses the use of sodium-sulfur batteries to store excess charge generated at an electric power generation station, this reference does not teach or suggest the use of this electric energy storage device to either load balance the consumer's energy consumption or to minimize the consumer's electric energy costs.

Thus, amended claim 7 is distinguishable from the cited prior art and defines patentable subject matter for at least the foregoing reasons.

With respect to claim 16, the text of claim 16 was amended to add the phrase "to maintain a high temperature in a sodium sulfur battery to ensure proper operation." The amendment clarifies that the energy consumption rate of 80% or greater maintains a high temperature in the sodium sulfur battery to ensure proper operation of the battery, demonstrating why the 80% or greater requirement is not obvious. Claim 16 was also amended to include the same "only" feature as claim 1. For at least the foregoing reasons, Applicant respectfully submits that claims 7 and 16 define patentable subject matter over the cited prior art.

The Examiner is herein requested to confirm receipt and consideration of the references cited in the Information Disclosure Statement filed March 31, 2005.

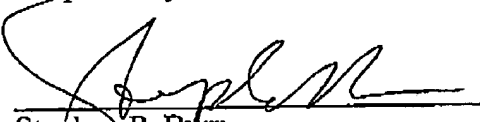
If the Examiner believes that contact with Applicant's attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call Applicant's attorney at the phone number noted below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

April 19, 2005

Date

Respectfully submitted,



Stephen P. Burr
Reg. No. 32,970

SPB/JAW/gmh

BURR & BROWN
P.O. Box 7068
Syracuse, NY 13261-7068

Customer No.: 025191
Telephone: (315) 233-8300
Facsimile: (315) 233-8320